

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 00-0807 CR-MORENO/DUBÉ

01 JUN -6 PM 12:50

CLERK OF COURT  
CLERK U.S. DIST. CT.  
S.D. OF FLA - MIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

DONALD H. WARSHAW,

Defendant.

**JOINT MOTION TO SEAL NOTICE OF FILING IN SUPPORT OF  
DOWNWARD DEPARTURE PURSUANT TO SENTENCING GUIDELINES**

The United States of America, by and through the undersigned Assistant United States Attorneys, and Defendant, Donald H. Warshaw, by and through his undersigned counsel, jointly submit their Motion to Seal Notice of Filing In Support of Downward Departure pursuant to the United States Sentencing Guidelines. In support thereof, the parties state as follows:

1. The United States and Defendant Warshaw have concurrently submitted herewith a Sealed Notice of Filing In Support of Downward Departure Pursuant to Sentencing Guidelines. The Notice of Filing and its incorporated attachment contain confidential medical and psychiatric information concerning the Defendant's minor child. Such information should be deemed confidential pursuant to various legal authorities. See e.g., Jaffee v. Redmond, 518 U.S. 1, 15 (1996) (recognizing psychiatric information as being privileged in nature); Section 455.671, Florida Statutes (communications between a patient and psychiatrist deemed confidential); Section 394.4615, Florida Statutes

CASE NO. 00-0807 CR-MORENO/DUBÉ

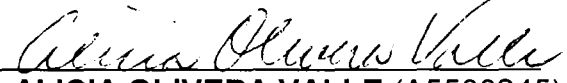
(mental health records deemed confidential); Section 39.0132, Florida Statutes (recognizing judicial proceedings and records relating to minor children under 18 years of age shall be afforded confidentiality).

2. Of course, this Court has broad discretion to seal documents in order to protect sensitive and confidential information. See e.g., U.S. v. Valenti, 987 F.2d 708 (11<sup>th</sup> Cir. 1993) (recognizing Court's authority to conduct closed bench conferences and seal documents).

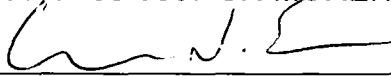
Based on the foregoing authorities, the submitted documentation which indicates that public disclosure of such information could jeopardize the health and welfare of the minor child, and the broad discretion afforded to this Court to maintain the confidentiality of its records, the parties respectfully request that the Notice of Filing be sealed and that all references to the material submitted herein be addressed by the Court under seal and/or in camera during the sentencing proceedings in this case, save an appropriate order or ruling on the pending Joint Motion for Downward Departure.

Respectfully submitted:

**GUY A. LEWIS**  
**UNITED STATES ATTORNEY**

By:   
**ALICIA OLIVERA VALLE (A5500245)**  
Assistant U.S. Attorney  
99 Northeast 4<sup>th</sup> Street  
Miami, Florida 33132-2111  
(305) 961-9153  
(305) 536-4675 Fax

CASE NO. 00-0807 CR-MORENO/DUBÉ

By: 

**EDWARD N. STAMM** (373826)

Assistant U.S. Attorney

99 Northeast 4<sup>th</sup> Street

Miami, Florida 33132-2111

(305) 961-9164

(305) 536-4675 Fax

**LASH & GOLDBERG LLP**

Suite 1200, Bank of America Tower

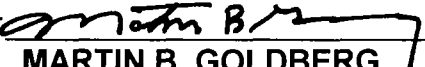
100 S.E. Second Street

Miami, FL 33131

(305) 347-4040

(305) 347-4050 Fax

Attorneys for Defendant, Donald H. Warshaw

By: 

**MARTIN B. GOLDBERG**

Florida Bar No. 0827029

**JESSICA L. LEYVA**

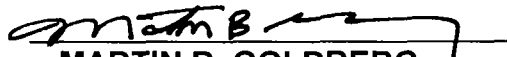
Florida Bar No. 153559

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true copy of the foregoing was served via Hand-Delivery

Mail this 5<sup>th</sup> day of June, 2001 to: Debra A. Speas, U.S. Probation Officer, United States

Probation Office, 300 NE 1<sup>st</sup> Ave., Room 315, Miami, Florida 33132.

  
**MARTIN B. GOLDBERG**